

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ABSTRAX, INC.,

Plaintiff,

No. C 09-5243 PJH

v.

ORDER RE DISCOVERY MOTIONS

SUN MICROSYSTEMS, INC.,

Defendant.

Before the court is plaintiff Abstrax, Inc.'s motion to compel discovery, and defendant Sun Microsystems, Inc.'s motion for a protective order. Having read the parties' papers and carefully considered their arguments and the relevant legal authority, and good cause appearing, the court hereby GRANTS Abstrax's motion and DENIES Sun's motion, as follows.

The Federal Rules of Civil Procedure provide a liberal framework for obtaining discovery. Hickman v. Taylor, 329 U.S. 495, 505 (1947). A party may obtain discovery of any nonprivileged matter that is relevant to any party's claims or defenses, or "for good cause," discovery of any matter relevant to the subject matter involved in the action. Fed. R. Civ. P. 26(b)(1). Relevancy in the discovery context has been construed broadly to encompass any matter that bears on, or that reasonably could lead to other matters that bear on, any issue that is in the case. See Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 352 (1978). District courts have broad discretion in resolving whether the information sought is relevant for discovery purposes. Survivor Media, Inc. v. Survivor Prods., 406 F.3d 625, 635 (9th Cir. 2005).

Relevant non-privileged discovery may be limited if the discovery sought is

1 unreasonably cumulative or duplicative, or is obtainable from some other source that is
2 more convenient; or the burden or expense of the proposed discovery outweighs its likely
3 benefit, taking into account the needs of the case, the amount in controversy, the parties'
4 resources, the importance of the issues at stake in the litigation, and the importance of the
5 proposed discovery in resolving the issues. See Fed. R. Civ. P. 26(b)(2).

6 Here, Abstrax seeks discovery into Sun's CDT software tool. The court finds that
7 Abstrax has made a sufficient showing that the information sought is relevant. Moreover,
8 the discovery requests were propounded in September 2008, while the case was still
9 pending in the Eastern District of Texas, and before the discovery cut-off date had passed;
10 and when Sun declined to provide the requested discovery and moved for a protective
11 order, Abstrax promptly moved to compel.¹

12 Nevertheless, the court does share Sun's concerns regarding the breadth and scope
13 of the discovery requests. Thus, while the court denies Sun's motion for a protective order
14 to preclude discovery into the CDT software tool, that denial is without prejudice to Sun's
15 filing of another motion for protective order to limit the scope of the CDT discovery. Any
16 such motion will be referred to a magistrate judge for resolution.

17 After all disputes regarding the CDT discovery have been settled, the parties shall
18 contact the court to request that a further case management conference be scheduled to
19 set a new briefing and hearing schedule for the dispositive motions.

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21 **IT IS SO ORDERED.**

22 Dated: August 3, 2010



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PHYLLIS J. HAMILTON
United States District Judge

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28 ¹ Thus, it does not appear that the parties contributed to the delay in adjudicating this dispute.